
Jury Misconduct

Carter v Rafferty 631 F Supp 533

Winter 2-5-1979

Myron Beldock, Attorney for Carter, letter dated February 5, 1979

Myron Beldock

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February 5, 1979

Mrs. Elizabeth McLaughlin
Clerk of the Appellate Division
Superior Court of New Jersey
State House Annex CN 006
Trenton, New Jersey 08625

Attn: Robert Friberg, Esq., Staff Attorney

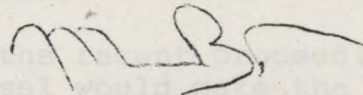
Re: State v. Rubin Carter, A-5166-76
State v. John Artis, A-5167-76

Dear Mr. Friberg:

I enclose the original and one copy of a letter in response to Mr. Humphreys letter dated February 2, 1979.

Copies of the letter are being simultaneously mailed to Judges Matthews, Cole, Milmed and Leopizzi and respective counsel, along with copies of the Federal transcripts.

Respectfully yours,


Myron Beldock
Attorney for Defendant, Carter

MB/sjg

cc: Hon. Robert A. Matthews
Hon. Martin J. Cole
Hon. Leon S. Milmed
Hon. Bruno J. Leopizzi
Burrell Ives Humphreys, Esq.
Ronald Busch, Esq.
Lewis Steel, Esq. ✓
Jeffrey Fogel, Esq.
Nathaniel Jones, Esq.
Mr. Rubin Carter
Mr. John Artis

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February 5, 1979

Superior Court of New Jersey
Appellate Division
Trenton, New Jersey 08625

Re: State v. Rubin Carter, A-5166-76
State v. John Artis, A-5167-76

Dear Judges:

We respectfully request that this Court accept this letter in response to the Prosecution's letter dated February 2, 1979 with respect to alleged jury misconduct.

The record of the hearing before Judge Leopizzi on October 6, 1978 was attached to our most recent papers and was submitted in the Federal proceeding before Judge Stern. The record showed that Judge Leopizzi was prepared to promptly grant an evidentiary hearing which was to commence with examination of the alternate juror Adamo and the three jurors who he named in his October 5th statement to Judge Leopizzi, to wit, Jurors Alario, Armellino and Demetriades.

Toward the close of the recent proceedings before Judge Stern it was decided that counsel would make the current application to this Court for reconsideration of its previous ruling denying an evidentiary hearing; and that this procedure was preferable, as an initial step, to the federal judge's suggestion of depositions of the jurors. The Federal judge made it clear that he was not giving any specific directions to the State courts. He also made it clear that he had understood from the minutes of Judge Leopizzi's hearing that the trial judge was going to give an evidentiary hearing. Among his final comments on the subject, Judge Stern stated (1/30/79, at page 95):

"All I'm trying to do is give the State an opportunity to give Judge Leopizzi the discretion to do what Judge Leopizzi said on the record he wanted to do."

February 5, 1979

Superior Court of New Jersey
Appellate Division

The Court further stated (at page 96):

"...Judge Leopizzi frankly indicated he's going to give a hearing if there was jurisdiction. If, under the proposal of Mr. Humphreys, he gets it back, I'm content that is the normal way this thing should go. It is up to Judge Leopizzi to decide how wide or how narrow in the first instance. I don't sit here to advise him on what to do. He's very competent. He'll decide that himself."

A copy of the transcript of the Federal proceedings of January 29 and January 30, 1979 are enclosed.

We do not deem it necessary to present any further argument here concerning the exclusionary sanction which is urged in Mr. Humphreys' letter, except to refer the Court to our previous arguments that we did not violate the court rule and that such sanctions would violate defendants' constitutional rights. In that regard we also refer the Court to the enclosed minutes of proceedings before Judge Stern, where extensive discussion was held concerning Mr. Humphreys' contentions.

We respectfully submit that it is essential for protection of the Appellants' constitutional rights that a full evidentiary hearing concerning the alleged misconduct of jurors and guards be held forthwith; and that this objective not be sidetracked or delayed by an inquiry into the alleged misconduct of counsel. If the latter is ruled to be appropriate, that inquiry should proceed after the evidentiary record concerning jurors has been preserved.

Respectfully yours,



Myron Beldock
Attorney for Defendant Carter

MB/sjg